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No. 82-1473

IN THE

Supreme Court of the United States

OCTOBER TERM, 1982

DIXIE FINANCE COMPANY, INC., and
TRANSOUTH FINANCIAL CORPORATION,
Petitioners,

v.

FEDERAL TRADE COMMISSION,
Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

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BRIEF AMICUS CURIAE OF THE AMERICAN FINANCIAL SERVICES ASSOCIATION IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

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April 1983

WILSON - EPES PRINTING CO., INC. - 789-0096 - WASHINGTON, D.C. 20001

QUESTION PRESENTED

Whether the investigation by the Federal Trade Commission of the sale of credit life and credit accident insurance by certain finance companies and automobile dealers is prohibited by the McCarran-Ferguson Act and the Federal Trade Commission Improvements Act of 1980.

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BRIEF AMICUS CURIAE OF THE AMERICAN FINANCIAL SERVICES ASSOCIATION IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

STATEMENT OF INTEREST OF AMICUS CURIAE

This brief amicus curiae is filed by American Financial Services Association (AFSA) with the written consent of counsel for the parties.

AFSA is the nation's largest trade association serving the consumer finance industry. Organized in 1916, AFSA represents over 580 companies engaged in the extension of consumer credit throughout the United States. Vir-

tually every AFSA member company offers credit life and credit accident and health insurance to its customers. Such insurance guarantees repayment of the loan in the event of the borrower's death or a disabling illness or accident. More than $2.5 billion in premiums was paid to insurance companies for credit insurance in 1981. Credit insurance is regulated by the states, which approve rates and prohibit misrepresentation or coercion in its sale. The decision in this case may ultimately affect the business of nearly every AFSA member company.

AFSA filed an Amicus Curiae brief before the United States Court of Appeals for the Fifth Circuit in this matter. That brief was filed under the name National Consumer Finance Association. The Association's corporate name was officially changed on February 1, 1983.

STATEMENT

For some years the Federal Trade Commission (FTC) has harbored suspicions that consumer finance companies induce customers to take credit insurance as a prerequisite to obtaining a loan. It has had broader concerns about credit insurance as well, especially its price.

Chafing under its limited authority over insurance, the FTC urged the Congress to amend the Truth-in-Lending Act to require that the cost of credit insurance be included in the Truth-in-Lending Act, alleging "credit insurance can be one of the most expensive forms of insurance. . . ." *Proposed Amendments to the Truth-in-Lending Act: Hearings on S. 1312, S. 1501 and S. 1653 before the Subcommittee on Consumer Affairs of the Senate Committee on Banking, Housing and Urban Affairs*, 95th Cong., 1st Sess. 136 (1977) (statement of Lewis H. Goldfarb). The Congress rejected this proposal.

In 1978 the FTC unsuccessfully repeated its proposal. *Simplification of the Truth-in-Lending Act: Oversight*

Hearings before the Subcommittee on Consumer Affairs of the Senate Committee on Banking, Housing and Urban Affairs, 95th Cong., 2nd Sess. 5 (1978) (statement of Michael Pertschuk).

In 1979 oversight hearings on a Federal Reserve Board study on tie-ins between the granting of credit and the sale of insurance by bank holding companies, alleging "the absence of effective price regulation," the FTC again testified in favor of federal control of credit insurance although the study concluded that the explicit tying of insurance credit transactions was practically nonexistent. *Tie-ins of the Sale of Insurance by Banks and Bank Holding Companies: Hearings before the Senate Committee on Banking, Housing and Urban Affairs*, 96th Cong., 1st Sess. 98 (1979) (statement of Lewis H. Goldfarb).

Those broader concerns have understandably been soft-pedalled in this proceeding, given the unmistakable absence of FTC jurisdiction over insurance rates. Until *USLIFE Credit Corp.* v. *FTC*, 599 F.2d 1387 (5th Cir. 1979), the FTC pursued its concerns principally under the Truth-in-Lending Act. The *USLIFE* case held that a written disclosure of the optional nature of credit insurance satisfies the TILA.

Undaunted, the FTC continued its investigation, this time using Section 5 of the Federal Trade Commission Act, which proscribes unfair or deceptive acts or practices. The FTC relied on an unpublished Fourth Circuit opinion which upheld a Commission order to an automobile dealer to cease and desist from misrepresenting that credit insurance was mandatory. *Peacock Buick, Inc.*, 86 F.T.C. 1532 (1975), *on reconsideration*, 87 F.T.C. 379 (1976), *aff'd per curiam, Peacock Buick, Inc.* v. *FTC*, 553 F.2d 97 (4th Cir. 1977) (notation of unpublished opinion only).

In 1980, the FTC sent copies of the *Peacock Buick* decision to 20 consumer finance companies and 25 automobile dealers. The FTC then issued civil investigative demands (CIDs) to the Respondents and 20 other consumer finance companies (17 of which are AFSA members), professedly as part of an investigation to determine whether those companies have engaged in unfair or deceptive acts or practices in violation of Section 5 of the Federal Trade Commisison Act, 15 U.S.C. § 45, by misrepresenting to consumers that the purchase of credit life or credit accident and health insurance was a prerequisite to obtaining extensions of credit.

Most of the recipient consumer finance companies resisted, either administratively or in the courts. The companies that sought pre-enforcement relief against the FTC have to date been unsuccessful. Those cases have relied on the McCarran-Ferguson Act limitation on federal intervention in insurance regulation and the Section 6 limitations on the FTC's authority. *General Finance Corp.* v. *FTC*, 7th Cir., No. 82-2510 (February 10, 1983); *FTC* v. *Manufacturers Hanover Consumer Services, Inc.*, 543 F.Supp. 1071 (E.D. Pa. 1982); *Audubon Life Ins. Co.* v. *FTC*, Civil Action No. 81-952B (M.D. La. Aug. 2, 1982); and *Domestic Finance Corp.* v. *FTC*, No. 82-0656 (E.D. Pa. Aug. 3, 1982).

ARGUMENT

Amicus Curiae submits that the underlying investigation by the FTC is inconsistent with a prior decision of this Court, conflicts with decisions of two courts of appeals and conflicts with clear Congressional direction.

I. THE INVESTIGATION OF THE SALE OF CREDIT LIFE AND CREDIT ACCIDENT INSURANCE IS AN INVESTIGATION OF THE BUSINESS OF INSURANCE.

The court of appeals decision allows the continuation of an investigation of the sale of insurance outside the regulatory authority of the FTC, as the regulation of insurance is reserved to the states. The McCarran-Ferguson Act in Section 1012(b) of Title 15 of the United States Code provides in relevant part as follows:

> No Act of Congress shall be construed to invalidate, impair, or supersede any law enacted by any State for the purpose of regulating the business of insurance, or which imposes a fee or tax upon such business unless such act specifically relates to the business of insurance; *Provided*, that after June 30, 1948, the Act of July 2, 1890, as amended, known as the Sherman Act, and the Act of October 15, 1914, as amended, known as the Clayton Act, and the Act of September 26, 1914, known as the Federal Trade Commission Act, as amended, shall be applicable to the business of insurance to the extent that such business is not regulated by State law. 15 U.S.C. § 1012(b).

The court of appeals' decision upholding the FTC's course of conduct in this investigation is inconsistent with decisions of this Court and at least two courts of appeals.

In 1958, the FTC attempted to regulate alleged false advertising in insurance sales practices. In response, in *FTC* v. *National Casualty Co.*, 357 U.S. 560 (1958), this Court unanimously found that insurance advertising prac-

tices were within the regulatory jurisdiction of the states. In *SEC* v. *National Securities, Inc.*, 393 U.S. 453 (1969), this Court stated that "business of insurance" included the "selling and advertising of policies."

Two cases have considered allegations of the practice of conditioning loans on the purchase of insurance—a contention at the very heart of the FTC investigation at issue here. *Dexter* v. *Equitable Life Assurance Soc'y*, 527 F.2d 233 (2d Cir. 1975), *Addrisi* v. *Equitable Life Assurance Soc'y*, 503 F.2d 725 (9th Cir. 1974), *cert. denied*, 420 U.S. 929 (1975).

In *Dexter* and *Addrisi*, it was alleged that insurance companies were using mortgage lending to coerce the purchase of insurance policies in violation of antitrust laws. Both the Second and the Ninth Circuits held that the practices in question were the business of insurance.

This Court's decision in *Group Life & Health Ins. Co.* v. *Royal Drug*, 440 U.S. 205 (1979) holds that the McCarran Act exemption is for the business of insurance, not the business of insurers. At issue here is the sale of insurance, not whether the seller is an insurance company or a consumer finance company acting as agent.

Congress has repeatedly shown its lack of enthusiasm for FTC involvement in the business of insurance. In discussing the FTC Improvements Act, Congress clarified the concept of the business of insurance as follows: "[t]he legislative history and the judicial decisions establish that the insurance business includes (among other activities): . . . the selling and advertising of policies. . . ." S. Rep. No. 96-500, 96th Cong., 1st Sess. 15 (1979).

The Congress has also stated that the sale of insurance is outside the regulatory scope of the FTC. The Federal Trade Commission Improvements Act of 1980 (94 Stat. 374) specifically prohibits the FTC from engaging in investigations into the sale of insurance. The

language of the Congressional committees during the consideration of this legislation is instructive. The Senate committee report stated:

> The Committee believes that additional legislative action, in the form of a clarifying amendment, is now needed because of FTC actions inconsistent with the jurisdictional limitations imposed by the McCarran Act. In testimony before Congress and in its various reports on insurance, the Commission has erroneously interpreted the McCarran Act to preclude only enforcement action under Sections 5 and 18 of the FTC Act, but not factfinding investigations or the issuance of public reports under Section 6.
>
> Acting under the incorrect assumption that it has jurisdiction, in the last 18 months the FTC has devoted a considerable portion of its resources to a broad program of insurance-related investigations, many culminating in the release of highly publicized reports. In these investigations, the Commission has in effect assumed the social and economic policymaking role which Congress has reserved exclusively for the States. S. Rep. No. 96-500, 96th Cong., 1st Sess. 14 (1979).

The Conference Committee convened to address the FTC Improvements Act of 1980 issued a "strong reaffirmation of the basic policy of the McCarran-Ferguson Act: that the business of insurance is to be regulated by the States" and not the federal government. H.R. Conf. Rep. 96-917, 96th Cong., 2d Sess. 29 (1980).

In spite of this clear restatement by Congress, on September 4, 1980, the FTC passed the resolution authorizing the use of compulsory process to conduct an investigation into the "business of insurance." Pursuant to this resolution, on May 4, 1981, the FTC served the CIDs to the Petitioners and other consumer finance companies and automobile dealers. The reaction from Congress was swift and pointed. On June 12, 1981, Senator Garn, the Chairman of the Committee on Banking, Housing and

Urban Affairs, wrote to acting FTC Chairman Clanton demanding an explanation of the FTC's conduct (Appendix A). Senator Garn asked:

> I am interested in the Federal Trade Commission's rationale for such an investigation, particularly in light of the clear mandate established by Congress concerning the Federal Trade Commission's involvement in the business of insurance. The position of the Congress was emphatically reinforced last year by the passage of the Federal Trade Commission Improvements Act of 1980. (Letter from Chairman Garn of the Committee on Banking, Housing and Urban Affairs to David A. Clanton, Acting Chairman of the Federal Trade Commission, dated June 12, 1981)

This was followed on June 18, 1981 by an additional demand for an explanation from Congressman Broyhill (Appendix B):

> As you know, I have had long standing interest in the Federal Trade Commission and its activities. In the Federal Trade Commission Improvements Act of 1980, we included a provision prohibiting the agency from undertaking any activities with respect to the insurance industry unless directed to do so by the relevant congressional committees.
>
> In view of the prohibition in the law, I would greatly appreciate your detailing for me the authority under which you undertook this investigation, along with any other information about your future plans in the area of credit insurance. (Letter from Congressman Broyhill to David A. Clanton, Acting Chairman of the Federal Trade Commission, dated June 18, 1981)

On June 24, 1981, Acting Chairman Clanton responded to Senator Garn and Congressman Broyhill. In identical letters (Appendices C and D), Mr. Clanton advised the Congressmen that in the opinion of the FTC, the insurance-selling practices which were being investigated were not the business of insurance and that the FTC

intended to proceed with the investigation, relying solely on its own statute as authority for its activities and citing only *Royal Drug* (*supra*) and *Peacock Buick* (*supra*) for authority.

II. ALTHOUGH THE TRUTH-IN-LENDING ACT PROVIDES STATUTORY AUTHORITY FOR FTC INVOLVEMENT WITH CREDIT INSURANCE, THE UNDERLYING INVESTIGATION RELIES SOLELY ON SECTION 5.

The Truth-in-Lending Act provision regulating the sale of insurance in connection with credit transactions carves out a limited exception to the general rule of state regulation of insurance sales. In *USLIFE* (*supra*), the Fifth Circuit limited the FTC's involvement with credit insurance by holding that a disclosure of the optional nature of the credit insurance, signed by the customer, satisfies the Truth-in-Lending Act, regardless of any contrary oral representation. That decision struck down the use of Section 5 of the FTC Act to expand the requirements of the Truth-in-Lending Act. The FTC had determined that a finance company was using unfair and deceptive acts to sell credit insurance in violation of Section 5, even though the evidence showed that the company had properly complied with the Truth-in-Lending Act. The Fifth Circuit clearly stated that the disclosure requirements could be broadened only by the Congress and vacated the FTC's order.

In 1980, the Truth-in-Lending Simplification and Reform Act was passed (Public Law 96-221) in which Congress made a number of changes to the TILA but did not change the original requirements concerning the sale of credit insurance in spite of urging to the contrary by the FTC.

Under the Act (15 U.S.C. § 1605(b)) and Regulation Z (12 C.F.R. § 226.4(a)(5) and 12 C.F.R. § 226.4(d)), a creditor who does not require the purchase of credit

insurance need not include the cost of such insurance in the calculation of total credit costs as represented by the annual percentage rate, but must supply a written disclosure advising the consumer that the insurance is optional and providing that this disclosure is to be signed by the customer.

Although the Truth-in-Lending Act provides the only basis for even limited FTC involvement in the insurance arena, the CIDs in the underlying investigation do not allege a violation of that Act. The sole authority referred to in the CID is the FTC Act. The FTC was right in not proceeding under the Truth-in-Lending Act because it does not reach such a case as the FTC suspects here. But it could not properly proceed under the FTC Act because that statute flatly forbids the FTC, without relevant exception, from proceeding against or investigating the state-regulated business of insurance.

CONCLUSION

The Petition for Writ of Certiorari should be granted.

Respectfully submitted,

FRANK MAX SALINGER *
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April 1983

APPENDIX A

UNITED STATES SENATE

COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
Washington, D.C. 20510

The Honorable David A. Clanton
Acting Chairman
Federal Trade Commission
6th & Pennsylvania Avenue
Washington, D.C. 20580

Dear Chairman Clanton:

It has been brought to my attention that the Federal Trade Commission is conducting an investigation of approximately forty finance companies and automobile dealerships. This investigation, which relates to the purchase of credit insurance in connection with consumer credit transactions, requests the named companies to submit certain information and extensive documentation.

I am interested in the Federal Trade Commission's rationale for such an investigation, particularly in light of the clear mandate established by Congress concerning the Federal Trade Commission's involvement in the business of insurance. The position of the Congress was emphatically reinforced last year by the passage of the Federal Trade Commission Improvements Act of 1980. The conference report on the act concluded that activities comprising part of the "business of insurance" and "regulated by State law" are clearly outside the Commission's jurisdiction.

In keeping with my firm commitment to the concepts of the McCarran-Ferguson Act and the position of the Congress that the regulation of the business of insurance

should be left to the states, I would appreciate an explanation of the Federal Trade Commission's involvement in this area.

Sincerely,

/s/ Jake Garn
JAKE GARN
Chairman

APPENDIX B

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
Washington, D.C. 20515

June 18, 1981

Mr. David Clanton
Acting Chairman
Federal Trade Commission
Pennsylvania Avenue at Sixth Street
Washington, D.C. 20580

Dear Mr. Clanton:

I have read in the news media about the Federal Trade Commission's investigation of the credit insurance industry. In addition, I have been contacted by several individuals about this matter.

As you know, I have had a long standing interest in the Federal Trade Commission and its activities. In the Federal Trade Commission Improvements Act of 1980, we included a provision prohibiting the agency from undertaking any activities with respect to the insurance industry unless directed to do so by the relevant congressional committees.

In view of the prohibition in the law, I would greatly appreciate your detailing for me the authority under which you undertook this investigation, along with any other information about your future plans in the area of credit insurance.

Thank you for your attention to this matter.

With best regards,

/s/ Jim
JAMES T. BROYHILL
Member of Congress

APPENDIX C

FEDERAL TRADE COMMISSION

Washington, D.C. 20518

Office of the Chairman June 24, 1981

The Honorable Jake Garn
Chairman
Committee on Banking, Housing
and Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to your letter of June 17, 1981 in which you request an explanation of the Commission's involvement in an investigation of the credit insurance sales practices of finance companies and automobile dealerships. As I understand it, you are concerned that the Congressional mandate, expressed both in the McCarran-Ferguson Act (15 U.S.C. § 1011, *et seq.*) and the Federal Trade Commission Improvements Act of 1980, renders this investigation inappropriate because activities which comprise "the business of insurance" and are regulated by state law are outside the Commission's jurisdiction.

The present investigation is designed to determine whether certain creditors are making false or deceptive representations to consumers concerning the necessity of purchasing credit insurance as a condition to obtaining financing. The Commission considered the possible application of both the McCarran-Ferguson Act and the amendments to the Federal Trade Commission Improvements Act of 1980 to this activity prior to authorizing the investigation, and for the reasons discussed below, determined that neither statute barred the investigation.

With regard to the application of the McCarran-Ferguson Act, that Act bars enforcement actions under

the Federal Trade Commission Act and most other Federal antitrust statutes to the extent the activity in question constitutes the "business of insurance" and is regulaed by State law. 15 U.S.C. 1012. The McCarran Act's exemption has been held to be limited primarily to activities involving the underwriting of insurance (*i.e.*, the spreading of the risk) and the relationship of the insuror to the insured (*i.e.*, the type of policy issued, its reliability, interpretation and enforcement). *Group Life and Health Insurance Co.* v. *Royal Drug*, 440 U.S. 205, 220-24 (1979). The Commission believes that the activities subject to this investigation (*i.e.*, representations made by creditors concerning the necessity of credit insurance in connection with extension of credit) do not constitute the "business of insurance" and that, therefore, the McCarran-Ferguson Act is inapplicable. Moreover, this specific issue was litigated by the Commission in 1977 in connection with the *Peacock Buick* case on which this present investigation is based. In that case the United States Court of Appeals for the Fourth Circuit rejected the creditor's argument that its deceptive representations concerning the necessity of credit insurance were shielded by the McCarran-Ferguson Act (a copy of this opinion is attached).

With regard to the application of the Federal Trade Commission Improvements Act of 1980, Section 5 specifically prohibits the Commission from using its general investigatory powers under Section 6 of the Federal Trade Commission Act to conduct studies or prepare reports concerning the business of insurance. Previously the Commission had asserted authority to study and issue reports about the business of insurance even though the McCarran-Ferguson Act barred any enforcement actions by the Commission. As the Senate Report on this section makes clear, the amendment was intended to stop the Commission from conducting such studies in areas where it clearly had no enforcement authority. *See* Senate Re-

port 96-500, 96th Cong., 1st Sess. (1979), 13-14. The report also makes clear, however, that the amendment "does not affect the FTC's existing jurisdiction, as circumscribed by the McCarran Act, to conduct law enforcement investigations" and that the amendment is "not intended to limit, expand or in any way change the applicability of the McCarran-Ferguson Act to the provisions of the Federal Trade Commission Act." *Id.* at 15. Finally, the report states that the Commission remains free to investigate activities not constituting "the business of insurance" and that the committee expected the Commission to adhere to judicial precedents in determining what activities constitute "the business of insurance." Thus, in light of the language and the purpose of the amendment, and after considering the applicable judicial decisions, the Commission does not believe the amendment is a bar to this present investigation.

The Commission, of course, shares your concern that it not engage in any activities which are barred by either the McCarran-Ferguson Act or the amendments to the Federal Trade Commission Improvements Act of 1980. We will monitor the course of this investigation to ensure that it is not expanded beyond its intended objectives. I hope the above explanation is responsive to your inquiry. If you need additional information please contact me.

Sincerely,

/s/ David A. Clanton
DAVID A. CLANTON
Acting Chairman

Enclosure

Peacock Buick, Inc., et al., 86 F.T.C. 1532 (D. 8976, 1975); 87 F.T.C. 379 (1976), *aff'd per curiam Peacock Buick, et al.* v. *F.T.C.*, No. 76-1287 (4th Cir., April 1, 1977).

APPENDIX D

FEDERAL TRADE COMMISSION
Washington, D.C. 20518

Office of the Chairman June 24, 1981

The Honorable James T. Broyhill
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Broyhill:

This is in response to your letter of June 17, 1981 in which you request an explanation of the Commission's involvement in an investigation of the credit insurance sales practices of finance companies and automobile dealerships. As I understand it, you are concerned that the Congressional mandate, expressed both in the McCarran-Ferguson Act (15 U.S.C. § 1011, *et seq.*) and the Federal Trade Commission Improvements Act of 1980, renders this investigation inappropriate because activities which comprise "the business of insurance" and are regulated by state law are outside the Commission's jurisdiction.

The present investigation is designed to determine whether certain creditors are making false or deceptive representations to consumers concerning the necessity of purchasing credit insurance as a condition to obtaining financing. The Commission considered the possible application of both the McCarran-Ferguson Act and the amendments to the Federal Trade Commission Improvements Act of 1980 to this activity prior to authorizing the investigation, and for the reasons discussed below, determined that neither statute barred the investigation.

With regard to the application of the McCarran-Ferguson Act, that Act bars enforcement actions under the Federal Trade Commission Act and most other Fed-

eral antitrust statutes to the extent the activity in question constitutes the "business of insurance" and is reguated by State law. 15 U.S.C. 1012. The McCarran Act's exemption has been held to be limited primarily to activities involving the underwriting of insurance (*i.e.*, the spreading of the risk) and the relationship of the insuror to the insured (*i.e.*, the type of policy issued, its reliability, interpretation and enforcement). *Group Life and Health Insurance Co.* v. *Royal Drug*, 440 U.S. 205, 220-24 (1979). The Commission believes that the activities subject to this investigation (*i.e.*, representations made by creditors concerning the necessity of credit insurance in connection with extensions of credit) do not constitute the "business of insurance" and that, therefore, the McCarran-Ferguson Act is inapplicable. Moreover, this specific issue was litigated by the Commission in 1977 in connection with the *Peacock Buick* case on which this present investigation is based. In that case the United States Court of Appeals for the Fourth Circuit rejected the creditor's argument that its deceptive representations concerning the necessity of credit insurance were shielded by the McCarran-Ferguson Act (a copy of this opinion is attached).

With regard to the application of the Federal Trade Commission Improvements Act of 1980, Section 5 specifically prohibits the Commission from using its general investigatory powers under Section 6 of the Federal Trade Commission Act to conduct studies or prepare reports concerning the business of insurance. Previously the Commission had asserted authority to study and issue reports about the business of insurance even though the McCarran-Ferguson Act barred any enforcement actions by the Commission. As the Senate Report on this section makes clear, the amendment was intended to stop the Commission from conducting such studies in areas where it clearly had no enforcement authority. *See* Senate Report 96-500, 96th Cong., 1st Sess. (1979), 13-14. The report also makes clear, however, that the amend-

ment "does not affect the FTC's existing jurisdiction, as circumscribed by the McCarran Act, to conduct law enforcement investigations" and that the amendment is "not intended to limit, expand or in any way change the applicability of the McCarran-Ferguson Act to the provisions of the Federal Trade Commission Act." *Id.* at 15. Finally, the report states that the Commission remains free to investigate activities not constituting "the business of insurance" and that the committee expected the Commission to adhere to judicial precedents in determining what activities constitute "the business of insurance." Thus, in light of the language and the purpose of the amendment, and after considering the applicable judicial decisions, the Commission does not believe the amendment is a bar to the present investigation.

The Commission, of course, shares your concern that it not engage in any activities which are barred by either the McCarran-Ferguson Act or the amendments to the Federal Trade Commission Improvements Act of 1980. We will monitor the course of this investigation to ensure that it is not expanded beyond its intended objectives. I hope the above explanation is responsive to your inquiry. If you need additional information please contact me.

Sincerely,

/s/ David A. Clanton
DAVID A. CLANTON
Acting Chairman

Enclosure

Peacock Buick, Inc., et al., 86 F.T.C. 1532 (D. 8976, 1975); 87 F.T.C. 379 (1976), *aff'd per curiam Peacock Buick, et al.* v. *F.T.C.*, No. 76-1287 (4th Cir., April 1, 1977).